

## **902 KAR 47:040. Cellulose insulation.**

RELATES TO: KRS 211.025, 211.090, 211.180, 217.700, 16 C.F.R. 1209, 1404

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 211.090, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.090 and 211.180 authorize the Cabinet for Health Services to adopt administrative regulations relating to all matters of public health for the prevention and control of health hazards. The purpose of this administrative regulation is to establish a standard for cellulose insulation; to prescribe testing requirements and procedures for the flame resistance and corrosiveness of cellulose insulation and to set forth the labeling requirements of all containers of cellulose insulation to which this administrative regulation applies. These requirements are intended to reduce or eliminate unreasonable risk of injury to consumers from flammable and corrosive insulation. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services. This administrative regulation shall apply to cellulose insulation that is a consumer product produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. This administrative regulation applies to cellulose insulation produced or distributed for sale to consumers for their direct installation or use, as well as cellulose insulation produced or distributed for installation by professionals.

Section 1. Definitions. (1) "Cellulose insulation" means cellulosic fiber, loose fill, thermal insulation suitable for blowing or pouring applications.

(2) "Cabinet" means the Cabinet for Health Services and its designated agents.

(3) "Risk of injury" means exposure to the chance of death, personal injury, or serious or frequent illness.

(4) "Manufacturer" means any person who manufactures or imports consumer products.

(5) "Distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except the term does not include a manufacturer or retailer of the product.

(6) "Retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by the person to a consumer.

(7) "Private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(8) "Manufactured" means to manufacture, produce or assemble.

(9) "To distribute in commerce" and "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(10) "Commerce" means trade, traffic, commerce, or transportation.

Section 2. General Requirements. (1) All cellulose insulation to which this administrative regulation applies shall be noncorrosive; have a critical radiant flux at least  $0.12 \text{ W/CM}^2$  for each of the three (3) specimens collected; and, have no evidence of flaming combustion or weight loss above fifteen (15) percent of the initial weight, for each of three (3) specimens, if tested in accordance with the procedures indicated in Section 3 of this administrative regulation.

(2) All manufacturers, importers and private labelers of cellulose insulation to which this administrative regulation applies shall certify their products comply with 16 CFR 1209 in accordance with requirements for conducting a reasonable testing program as indicated in Section 3(4) of this administrative regulation.

(3) All containers of cellulose insulation to which this administrative regulation applies, shall have the following compliance labeling statement: "This product meets the amended CPSC standard for

flame resistance and corrosiveness of cellulose insulation." To meet this requirement:

(a) Manufacturers and private labelers may use any type of label, including one which is pressure sensitive or glued on, if the label is made in a manner that it will remain attached to the container for the expected time interval between the manufacture of the product and its installation.

(b) The label shall appear prominently and conspicuously on the container in letters which are at least one-fourth (1/4) inch in height.

(c) The labeling statement shall be printed with legible type in a color which contrasts with the background on which the statement is printed.

(4)(a) The following cautionary labeling shall also appear on all containers of cellulose insulation: "CAUTION; POTENTIAL FIRE HAZARD: Keep insulation at least three (3) inches away from the sides of recessed light fixtures. Do not place insulation over such fixtures so as to entrap heat.

Also keep this insulation away from exhaust flues of furnaces, water heaters, space heaters, or other heat-producing devices.

To be sure that insulation is kept away from light fixtures and flues, use a barrier to permanently maintain clearance around these areas. Check with local building or fire officials for guidance on installation and barrier requirements.

REQUEST TO INSTALLER: Remove this label and give it to the consumer at completion of job."

(b) The cautionary labeling statement required shall comply with the following conditions:

1. Appear prominently and conspicuously on the container.

2. The word "CAUTION" shall appear in capital letters at least one-fourth (1/4) inch in height.

3. The words "POTENTIAL FIRE HAZARD" and "REQUEST TO INSTALLER" shall appear in capital letters at least three-sixteenths (3/16) inch in height.

4. The remainder of the statement shall appear in capital letters at least three-sixteenths (3/16) inch in height, with lower case letters in corresponding proportion at least one-eighth (1/8) inch in height.

5. The labeling statement shall be enclosed within a rectangle formed with lines at least one-sixteenth (1/16) inch in width and be printed with legible type in a color which contrasts with the background on which the statement is printed.

6. Manufacturers may use any type of label, including one which is pressure sensitive or glued on, if the label is made in a manner that it will remain attached to the container for the expected time interval between the manufacture of the product and its installation.

(c) Manufacturers of cellulose insulation may substitute the phrase "TO HELP AVOID FIRE" for the phrase "POTENTIAL FIRE HAZARD" in the label described above. Manufacturers may also delete the word "cellulose" from the first sentence of the label and may delete the word "this" from the third sentence of the label. The remainder of the label statement shall appear exactly as described above.

Section 3. Cellulose Testing and Certification of Compliance. Cellulose insulation shall be certified for compliance and tested in accordance with the procedures prescribed in CFR 1209, July 6, 1979, Interim Safety Standard for Cellulose Insulation, as specified in this section. The following specifications are adopted without change:

(1) 16 CFR Part 1209, Section 1209.5 - Test procedures for corrosiveness.

(2) 16 CFR Part 1209, Section 1209.6 - Test procedures for critical radiant flux.

(3) 16 CFR Part 1209, Section 1209.7 - Test procedures for smoldering combustion.

(4) 16 CFR Part 1209, Section 1209.33 - Reasonable testing program.

(5) 16 CFR Part 1209, Section 1209.34 - Qualification testing.

Section 4. A copy of the referenced federal regulations indicated in this administrative regulation is on file in the Office of the Commissioner, Department of Public Health, 275 East Main Street,

Frankfort, Kentucky 40621, and is available for public inspection and copying, Monday through Friday, 8 a.m. to 4:30 p.m. Copies of these federal regulations are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 5. Cellulose Insulation Manufactured not in Compliance with this Administrative Regulation. Any cellulose insulation manufactured in the Commonwealth of Kentucky or distributed for sale to, or the personal use, consumption or permanent or temporary use in a household or residence, a school, in recreation, or otherwise in this Commonwealth, shall be deemed a prohibited product and prohibited from distribution in commerce if found to be not in compliance with this administrative regulation.

Section 6. Compliance. Cellulose insulation, which is in compliance with applicable standards adopted by the U. S. Consumer Product Safety Commission, shall be considered to be in compliance with this administrative regulation. In the event of a variance between this administrative regulation and the regulations adopted by the U. S. Consumer Product Safety Commission relating to cellulose insulation, compliance with the federal regulations shall be deemed compliance with the provisions of this administrative regulation.

Section 7. Issuance and Service of Notice of Violation. (1) If test procedures prescribed in Section 3 of this administrative regulation reveal the cellulose insulation is not in compliance with the established standards, the cabinet shall notify the owner of violations by means of a written notice. The notification shall:

- (a) Set forth the specific violations found.
- (b) Establish a specific and reasonable period of time for the correction of violations.
- (c) State that an opportunity for appeal from any notice of inspectional findings will be provided if a written request for a hearing is filed with the cabinet within fifteen (15) days of receipt of the notice of inspectional findings.

(2) Notices provided for under this administrative regulation shall be deemed to have been properly served if the written notification of findings has been delivered personally to the owner of the cellulose insulation manufacturing firm or person in charge, or if such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the owner or person in charge. A copy of such notice shall be filed in the records of the cabinet.

Section 8. Hearings. Upon timely receipt of a written request for an appeal of the findings of any inspection under the authority of this administrative regulation, the cabinet shall afford an aggrieved party the opportunity for a hearing. All administrative hearings shall be conducted in accordance with 902 KAR 1:400.

Section 9. Quarantine. In the event cellulose insulation does not meet the applicable standards adopted by the U. S. Consumer Product Safety Commission as to flammability, corrosiveness, labeling requirements; certification or other standards adopted by the commission after the effective date of this administrative regulation, the cabinet may, if it deems the article to be dangerous to public health, quarantine the article pursuant to KRS 217.700. (6 Ky.R. 654; eff. 7-2-80; Am. 20 Ky.R. 1422; eff. 1-10-94; 22 Ky.R. 2472; eff. 8-1-96.)